SECTION 7.0 FREQUENTLY ASKED QUESTIONS

This section answers frequently asked questions (FAQs) pertaining to the 10% Rule. These FAQs are organized under the following categories:

- General Information
- Standard Application Process
- Calculating Impervious Cover
- 2000 Maryland Stormwater Design Manual and the 10% Rule
- Best Management Practices (BMPs)
- Residential Lot Development
- Special Development Scenarios
- Critical Areas Buffer
- Offsets

General Information

1. *What is the Critical Area?*

   In 1984, the Maryland General Assembly resolved to reverse the deterioration of the Chesapeake Bay's environment by enacting the Chesapeake Bay Protection Act. The Act required 16 counties, Baltimore City, and 44 municipalities surrounding the Bay to implement a land use and resource management program designed to mitigate the damaging impact of water pollution and loss of natural habitat, while also accommodating the jurisdiction's future growth. The General Assembly passed the "Atlantic Coastal Bays Protection Act " in 2002 that added the area surrounding the five Atlantic Coastal Bays and their tributaries to the Critical Area. The Critical Area Act recognizes that the land immediately surrounding the Bay and its tributaries has the greatest potential to affect water quality and wildlife habitat and thus designated all lands within 1,000 feet of tidal waters or adjacent tidal wetlands as the "Critical Area."

2. *Who and what does the Critical Area Act affect and how can I find out if my property is in the Critical Area?*

   The Act affects all those who live or own property within 1,000 feet of the Chesapeake Bay, Atlantic Coastal Bays, and their associated tidal waters and wetlands. All development or use of land located within the Critical Area is affected in some way. Land located in the Critical Area is subject to additional regulations; however, these regulations do not prohibit the land from being developed and used. Counties and municipalities affected by the Critical Area regulations maintain maps showing the extent of the Critical Area. Information about the maps and the Critical Area can be obtained from the local planning and zoning office.

3. *What is the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays and how does it affect me?*

   The 29-member Critical Area Commission for the Chesapeake and Atlantic Coastal Bays was established by the 1984 Chesapeake Bay Protection Act and amendments to the Act in 2002. The Commission designed the Critical Area Criteria which are the basis of 61 local Critical Area Programs. The Commission is a State agency that reviews and approves local jurisdiction's Critical Area Programs and amendments to those programs. The Commission staff review and comment on subdivisions, site plans, variances and other local development proposals within the Critical Area. However, each local jurisdiction maintains sovereignty in creating, adopting, and implementing its local program in accordance with the Commission's Criteria.

4. *Does the Critical Area Commission have to approve all applications to build or develop in the Critical Area?*

   No. The Commission reviews and approves State government projects on State land and some local government projects that involve major development or development that involves approval under specific conditions. Most residential building permits can be reviewed and approved by the local government. If the permit involves a variance or special exception, then Commission staff will review it and provide comments on the proposed project to the local government. Applicants should remember to check with their local planning and zoning office before undertaking any development activity within the Critical Area.

5. *Who should be contacted about a stormwater problem?*

   The local Public Works Department or Planning Department usually handles stormwater management issues, and complaints and questions about stormwater problems should be directed to them. General information about stormwater management is available from the Maryland Department of the Environment, which can be accessed on-line at www.mde.state.md.us

Standard Application Process

6. *How does an applicant perform the calculations for a redevelopment site that has an existing BMP that is assumed to be adequately sized and designed to treat the "existing conditions" load?*

   The 10% Rule requires a 10% reduction below pre-development conditions, so a BMP sized to treat the pre-development load will not satisfy the 10% Rule requirements. The applicant must complete the Standard Application Process. If the existing BMP is an approved structural practice, it should be identified in Step 5 of the Standard Application Process. If the existing BMP is not an approved structural

practice, or if the BMP does not satisfy the removal requirements, the applicant should examine other opportunities to meet the 10% Rule requirements.

7. *How does an applicant perform the calculations for a redevelopment site that has an existing older BMP that does not meet the current design standard, but may be providing some water quality benefit?*

   The pollutant removal associated with the existing BMP may be estimated based on the best available information about the design and construction of the BMP and its performance. An applicant should work with the local government and the Commission to estimate the removal efficiency rate of the BMP. Most likely, the removal efficiency of the existing BMP will be somewhat lower than the removal efficiencies in Section 4.0 depending on the age and type of the BMP.

8. *How should the calculations be performed when the acreage of the drainage area changes from the pre-development to the post-development conditions because of site grading?*

   The applicant should apply the post-development drainage boundaries to the pre-development site to calculate pre-development loads. The site area should remain the same for all calculations.

9. *How does the "fraction of drainage area served" listed in Step 5 of the Standard Application Process affect the 10% rule requirements?*

   The fraction of the drainage area served by BMPs is rarely 100% of the development site, yet is often reported as so. The plan submittal should clearly delineate the drainage area associated with each proposed BMP (see Figure 7.1 for an example). The drainage area should be measured, and divided by the total site area (or, if the site has been split, divided by each "workable unit") to determine the fraction of drainage area served. The fraction of drainage area served is then used to determine the total load removed.

10. *How should an applicant handle large sites to ease the review process?*

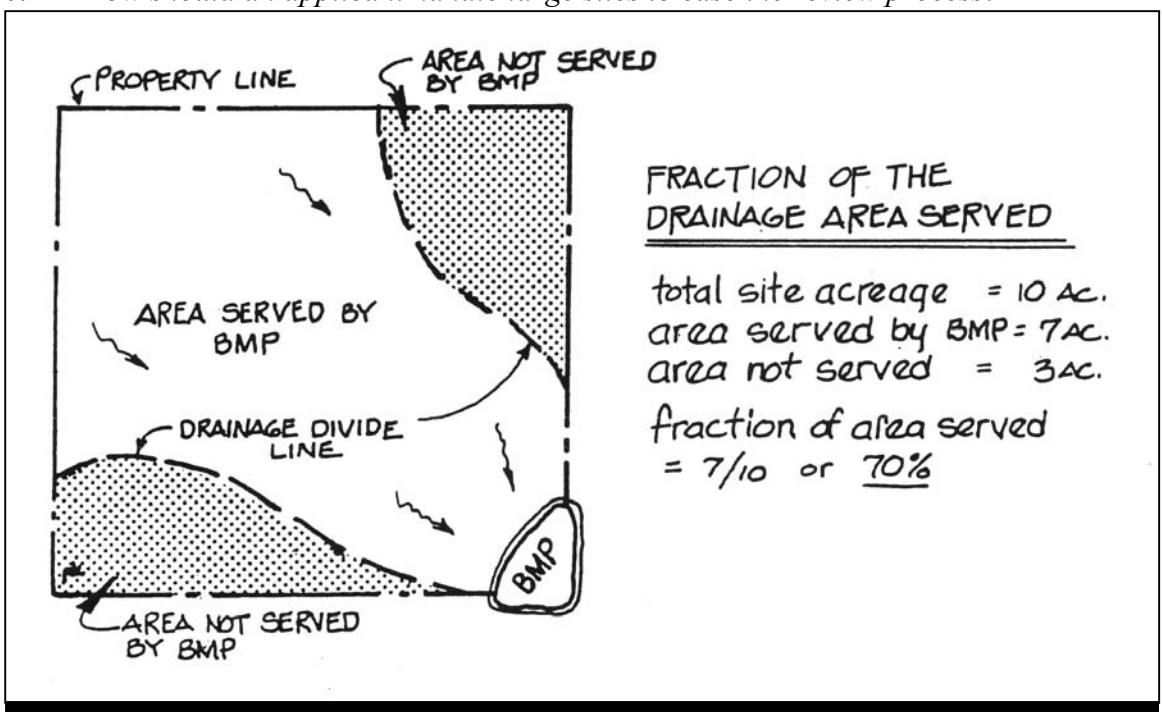

Figure 7.1 Delineation of Drainage Area Served by the BMP

Large development sites may be broken up into separate workable units based on drainage divides or type of development (see Figure 7.2 for an example). Separate worksheets for each "unit" must be completed.

- The pollutant removal requirement can be met through an additive process across the site. This is accomplished by comparing the total load removed for each unit with the sum of the Removal Requirement (RR) for the site.
- All phases of a development should be included in the computations, using conceptual impervious cover estimates for later phases.

11. *How does an applicant handle negative removal requirements?*

Under certain scenarios, the calculations can result in a value less than zero for the pollutant removal requirement. This less-than-zero scenario is referred to as a negative removal requirement, and can happen when a drainage area has less than 17% imperviousness. An applicant must complete calculations for each drainage area and select BMPs to meet the removal requirements for each drainage area. Once this is done, sites with multiple drainage areas are evaluated on a drainage area by drainage area basis and not by the summation of the site's total drainage area.

Negative removal requirements (RR) are not portable to other sites or drainage areas. Negative values for RR must be rounded up to zero for determination of total site compliance.

12. *What if a BMP plan only meets a portion of the Removal Requirement on site?*

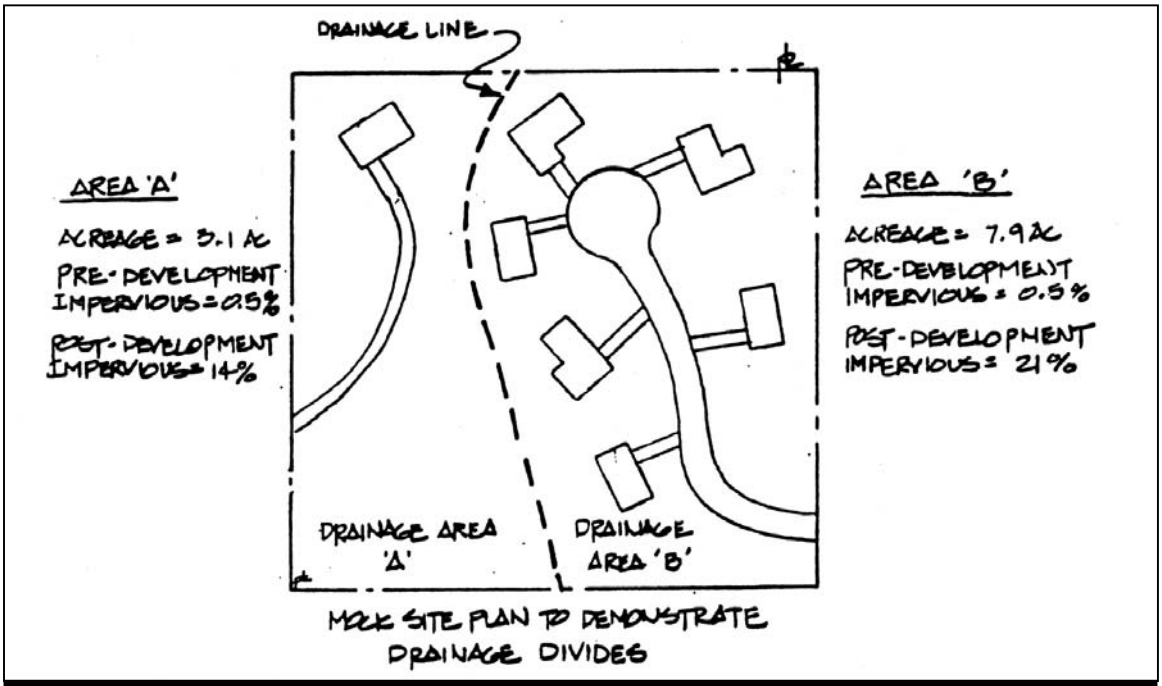

Figure 7.2 Using Drainage Divides to Break-Up the Site into Workable Units

If at all possible the applicant should try to improve the BMP design or lower the level of site impervious cover as a means to ensure compliance through an improved design. If changes to the design are proven infeasible, the plan reviewer should choose an appropriate offset project to fully meet pollutant removal requirement. See Section 6.0 for more information on offset options.

13. *Do the calculations for the Standard Application Process have to be completed for portions of the site that will be left undeveloped?*

Yes. Generally, the Standard Application Process must be completed for the entire portion of the site within the Critical Area that is designated IDA. Certain development projects on large sites that are developed over time, such as college campuses or airports, may have some flexibility with addressing stormwater requirements for portions of the site as various projects are completed. The applicant should work with the Commission and appropriate State and local government staff to identify the best method for addressing the pollutant reduction requirement. In some cases, the development of a comprehensive stormwater management plan for the entire site is the most practical and effective way to address large sites that are developed over many years.

Calculating Impervious Cover

14. *For purposes of stormwater calculations within the IDA, what is "impervious cover?"*

    Impervious cover is defined as those surfaces in the landscape that impede the infiltration of rainfall and result in an increased volume of surface runoff. As a simple rule, human-made surfaces that are not vegetated will be considered impervious. Impervious surfaces include roofs, buildings, paved streets and parking areas and any concrete, asphalt, compacted dirt or compacted gravel surface.

15. *Are certain types of BMPs that "hold water," such as ponds and wetlands, considered impervious?*

    No. Although these facilities may technically be all or partially impervious, these facilities do not generally generate or accelerate stormwater flows and they function to collect and treat pollutants rather than generate them. For purposes of performing stormwater calculations, all BMPs are considered pervious unless they are located within or under an impervious structure such as a building or parking lot.

16. *How far back should an applicant go when determining pre-development impervious cover?*

    Pre-development impervious cover is defined as the impervious cover at the site at the time that the development planning process begins.

17. *Should wooden decks count as impervious cover?*

    Wooden decks are considered impervious unless:

    - The deck is constructed with gaps between the boards and, instead of a concrete pad, a sloping 6" gravel bed is placed under the deck to allow stormwater to infiltrate into the soil. Sheet flow from deck runoff can be insured and erosion reduced by the placement of a gravel bed with vegetative stabilization.

    If a concrete pad is placed under a wooden deck, include the square footage of the deck into the total impervious calculation. See Appendix F for more information.

    Decks that are not constructed in this manner or that are made of concrete are considered impervious.

18. *Should gravel roads and dirt drives be included in the impervious cover calculation?*

    Both gravel roads and dirt drives should be considered as impervious surface areas for the following reasons:

- Compaction of these non-paved surfaces occurs over time with increased use, which prevents infiltration of rainwater into soils.
- Gravel roads and dirt drives become sources of erosion and sediment transport during storm events.

See Appendix F for alternative driveway designs.

19. *Should landscaping ponds and swimming pools be counted as impervious cover?*

Landscaping ponds and swimming pools should be included as part of the total site impervious cover. Although pools may collect portions of stormwater runoff, they are not designed as a stormwater facility. In addition, they disrupt the natural ability of soils to percolate/filter surface runoff. In the case of landscaping ponds, the same criteria and reasoning applies, regardless of the use of the pond.

20. *Permeable pavers and porous pavement are considered partially pervious. How can the percent of perviousness be determined?*

The applicant should submit the manufacturer's specifications for the specific product proposed to be used to the local Critical Area Planner ofr review and a determination of perviousness.

2000 Maryland Stormwater Design Manual and the 10% Rule

21. *Do local governments and consultants still need to submit 10% Rule Worksheets when stormwater management for a site falls under the requirements of the MDE Manual?*

Yes. Commission staff and MDE staff think that in most cases compliance with the MDE Manual will meet or exceed the requirements for compliance with the 10% Rule for new development projects. However, until this is verified through actual practice, the worksheets still need to be submitted.

22. *Do these worksheets need to be submitted to the Critical Area Commission?*

Yes. For projects that require submittal to the Commission as specified in COMAR 27.03.01.03 for review and comment, the applicant must submit the 10% Rule worksheets with the site plan or subdivision plat. For projects that do not require review and comment by the Critical Area Commission, submit the 10% Rule worksheets to the local agency responsible for reviewing them.

23. *Why are there differences between MDE's 2000 Maryland Stormwater Design Manual and the Commission's Urban Stormwater Quality Guidance?*

MDE's 2000 Maryland Stormwater Design Manual addresses stormwater comprehensively and the provisions relate to all aspects of stormwater management including stormwater quantity, stormwater quality, stormwater velocity, groundwater recharge, stream degradation, and overbank flooding. The Commission's guidance relates only to stormwater quality and the provisions in the Critical Area Criteria that require a 10% reduction in pre-development pollutant loadings.

24. *COMAR 26.17.02 defines redevelopment as "Any construction, alteration, or improvement exceeding 5,000 square feet of land disturbance performed on sites where existing land use is commercial, industrial, institutional, or multi-family residential." This definition is different than the one provided in the 10% Rule guidance. Which definition should be used?*

Applicants should use the definition in the 10% Rule guidance for compliance with the Critical Area pollutant reduction requirement. Applicants should use the definition in the 10% Rule guidance that categorizes redevelopment as a development activity that takes place on a site with pre-development imperviousness greater than 15%. New development is defined as a development activity that takes place on a site with pre-development imperviousness less than 15%.

25. *The MDE Manual applies to any construction activity disturbing 5,000 or more square feet of earth, and exempts the following activities:*

- *Additions or modifications to single family structures that do not disturb more than 5,000 square feet of land*
- *Developments that do not disturb more than 5,000 square feet of land*

Are these activities also exempt from compliance with the 10% Rule?

No.

Additions or modifications to single family structures that disturb 250 square feet or more of site area must comply with the 10% Rule, using one of the three options described below:

- Option 1. Submit a Residential Water Quality Management Plan
- Option 2. Plant Trees and/or Shrubs on the site
- Option 3. Implement an Offset

Individual residential development projects that disturb an area greater than 5,000 square feet may also be required to submit a standard stormwater management plan for single lot residential construction. See Section 5.0 for more information on individual, single-family residential development requirements.

Developments that disturb less than 250 square feet of land are exempt, but those that disturb between 250 square feet and 5,000 square feet must comply with the 10% Rule. Those that disturb over 5,000 square feet must comply with both the 10% rule and the MDE Manual.

Agricultural activities are exempt from 10% Rule compliance because Best Management Practices on agricultural lands are implemented through Soil Conservation and Water Quality Plans administered by the local Soil Conservation Districts.

26. *Why aren't additions or modifications to single family structures exempt?*

Additions to single family structures and projects that disturb less than 5,000 square feet are not exempt from 10% Rule compliance because the Critical Area Criteria require that for both new development and redevelopment projects, pollutant loadings must be reduced by at least 10% below the level of pollution on site prior to development. The Criteria do not provide for exemptions because for every development activity, some effort should be made to improve water quality. Rather than provide for exemptions, the Criteria do allow for the implementation of alternative measures or offsets that compensate for the undesirable impacts of development on water quality.

27. *The MDE Manual doesn't address BMPs in a series. Can an applicant still use them?*

Yes, an applicant can use BMPs in a series to meet the 10% Rule requirements, per the following conditions:

- Each BMP must be sized to treat the full water quality volume (WQ_v) for the area draining to it, per the 2000 Maryland Stormwater Design Manual.

- The pollutant load removed by the first BMP in the series is calculated per Step 5 in the Standard Application Process (see Table 4.7).

- The removal efficiency of the second BMP in the series is one-half of the total phosphorus removal efficiency displayed in Table 4.8. For instance, the total phosphorus removal efficiency for wet ponds is 50%. If the wet pond is the second BMP in a series, a removal efficiency of 25% is used to calculate the phosphorus load removed by the second practice.

- The "L_{post}" (see Table 4.7) used to calculate the load removed by the second BMP in the series equals the pollutant load exported from the first BMP in the series, *not* the average annual load of total phosphorus exported from the post-development site.

  Load Removed, $LR = (LR_{BMP1}) + (LR_{BMP2}) + (LR_{BMP3})$

Where $(LR_{BMP1}) = (L_{post})\ (BMP_{1RE})$ (% DA Served)

$(LR_{BMP2}) = (L_{post} - LR_{BMP1})\ (0.5)\ (BMP_{2RE})$ (% DA Served)

$(LR_{BMP3}) = (L_{post} - LR_{BMP2})\ (0.5)\ (BMP_{3RE})$ (% DA Served)

28. *Can vegetated rooftops be used to obtain a stormwater management benefit?*

Yes. Buildings with a vegetated roof system, approved by a local government, the Critical Area Commission, or MDE, will not be considered as an impervious surface. This means that when calculating the post-development area of impervious surface, the applicant should not include the area of a building or buildings with a vegetated roof. CAC and MDE both consider vegetated rooftops as 100% pervious. Section 4.0 discusses the inclusion of vegetated rooftops in the Standard Application Process.

29. *The MDE Manual gives stormwater credits for the following site planning techniques: natural area conservation, disconnection of rooftop runoff, disconnection of non-rooftop runoff, sheet flow to buffers, grass channel use, and environmentally sensitive development. How do these credits relate to 10% Rule compliance?*

The Critical Area Criteria allows the application of non-structural BMPs to meet the 10% pollutant reduction requirements. Several of these non-structural BMPs align with options presented in the MDE Manual under the stormwater credits. Some of the stormwater credits in the MDE Manual apply to reductions in the required recharge volumes, water quality storage volumes, channel protection storage volumes, and overbank flood protection volumes. These credits do not apply directly to phosphorus removal; however, some of the planning techniques will have the effect of reducing pollutant loadings and ultimately reducing the phosphorus removal requirement. See Section 4.0 for more information.

30. *The MDE Manual encourages avoiding structural facilities for stormwater management and using more natural methods. How will this new strategy be coordinated with 10% Rule compliance?*

The application of non-structural BMPs allows for a more natural method for managing stormwater. The Commission is willing to coordinate stormwater planning and design with applicants and MDE to identify the most appropriate stormwater management measures for each site. In cases where nonstructural approaches will achieve the 10% pollutant reduction requirement, they will be strongly encouraged.

Appendix E provides information on non-structural BMPs that may be used to comply with the 10% Rule. The non-structural BMPs include filter strips, vegetated rooftops, permeable pavers, and grass channels. Porous pavement and cisterns may be approved on a case-by-case basis. Some non-structural BMPs may not be

appropriate for certain sites. Section 4.0 and Appendix E provide additional specific information about BMPs. For the purposes of this Guidance Manual, these BMPs have not been assigned phosphorus removal efficiencies but should be used from the perspective of "reducing the area" of proposed impervious cover. Implementing non-structural BMPs first at a site can help reduce or eliminate the need for costly structural BMPs. See Section 4.0 for guidance on incorporating non-structural BMPs in the Standard Application Process.

The 10% Rule Guidance also allows for compliance with the pollutant removal requirement using offsets. Section 6.0 provides additional information about offset options. Many of the offset options involve nonstructural approaches. In general, the "credit" given for these offsets is determined on a case- by-case basis.

31. *The MDE Manual provides a "sheetflow to buffer" credit. When an applicant establishes the buffer on a new development project, can they get a phosphorus removal credit for compliance with the 10% Rule?*

On any site where the 100-foot Buffer is required to be established by the Critical Area Criteria, a phosphorus removal credit for planting a forested buffer within 100 feet of tidal waters, tidal wetlands, and tributary streams (the 100-foot Buffer) is not permitted. On a case-by-case basis, an applicant may receive phosphorus removal credit of up to two pounds per acre for planting a forested buffer on a site where buffer establishment is not required (a grandfathered lot that is not part of the project) or planting offsite in an area approved by the local government (see Section 6.0).

Best Management Practices (BMPs)

32. *Can BMPs that are not listed as structural BMPs in this guidance be used to meet the 10% Rule Requirements?*

The Maryland Department of the Environment (MDE) periodically reviews new structural BMPs and determines whether they may be used to meet the management requirements per the 2000 Maryland Manual. If a structural BMP not included in this guidance has been reviewed by MDE, the recommendation of MDE should be followed.

If a proposed structural BMP has not been reviewed by MDE, it may be used to treat runoff from no more than 10% of the development site for redevelopment projects only. The total phosphorus removal efficiency used in the Standard Application Process must be the BMP efficiency as reported by an independent source (i.e., not associated with the manufacturer of the proprietary device).

Only MDE-approved BMPs may be used to provide stand-alone water quality treatment for new development.

Alternatively, some BMPs may be applied as non-structural practices instead. This will be applied on a case-by-case basis.

33. *Can an applicant obtain credit for BMPs that may not be designed in accordance with the specifications included in the MDE Manual (i.e., a bioretention area with less than the specified depth of controlled soil medium)?*

Yes. On a case-by-case basis, an applicant may obtain some credit for alternative BMP designs based on recommendations from the Maryland Department of the Environment (MDE). Applicants proposing modifications to the design standards in the MDE Manual should coordinate with Commission staff and MDE staff early in the design process in order to allow sufficient time to review the proposal.

34. *What kinds of BMPs can be used in linear road rights-of-way (ROWs)?*

Several of the structural BMP options are linear in nature and well suited to ROWs, including:

- Infiltration trenches
- Perimeter sand filters
- Bioretention
- Dry swales
- Wet swales

Alternatively, stormwater runoff may be conveyed in an grass channel to a structural BMP. More detail on these BMP options is provided in Appendix E.

35. *How should the calculations be handled for a BMP that is located outside the Critical Area on a project site?*

The applicant should complete Worksheet A to calculate the removal requirement for the Critical Area portion of the site as they would for a typical on-site compliance project. The applicant should include the proposed BMP located outside the Critical Area in Step 5. The post-development load and drainage area served used in Step 5 should be based on the Critical Area portion of the site, even if the BMP is located outside the Critical Area. The applicant should ensure that the BMP is adequately sized to treat any run-off draining to it from portions of the site outside the Critical Area in addition to treating the run-off from within the Critical Area.

36. *Can an applicant meet the pollutant removal requirement by treating portions of a site that are located outside the Critical Area? How should the calculations be handled for this situation?*

In most cases, if an applicant cannot meet the pollutant removal requirement by treating stormwater run-off within the Critical Area, then treatment of areas outside the Critical Area may be considered at the local government's discretion. This

situation would be considered an off-site compliance situation, and the applicant would complete Worksheet B.

37. *How should the calculations be handled for a BMP that treats an on-site pollutant load, but the BMP itself is located off-site?*

The applicant should complete Worksheet A to calculate the removal requirement for the site as they would for a typical on-site compliance project. The applicant should include the proposed off-site BMP in Step 5. The post-development load and drainage area served used in Step 5 should be based on the project site, even if the BMP is off-site. The applicant should ensure that the BMP is adequately sized to treat any run-off draining to it from off-site in addition to treating the run-off from within the Critical Area.

38. *How is an offset different from off-site compliance?*

Compliance with the 10% Rule through offsets should be clearly distinguished from compliance achieved by providing treatment of off-site drainage areas with an on-site BMP. Treatment of an off-site drainage area with an on-site BMP is a means of increasing the amount of runoff treated by the on-site BMP and, thereby, increasing the amount of pollutant load removed. An offset, on the other hand, is not located on the project site, and may involve activities other than the construction of a BMP. Offsets are used when on-site practices are either infeasible and/or insufficient to comply with the 10% Rule at the development site. Applicants can calculate pollutant loads removed in off-site compliance situations using Worksheet B. In situations where offsets are used, Worksheet B may be applicable if the offset involves the construction, conversion, or retrofitting of a BMP. For other types of offsets, applicants should refer to Section 6 and consult with the local Critical Area Planner and the staff of the Critical Area Commission for guidance.

Residential Lot Development

39. *How should an applicant treat residential lots in a subdivision that has a community stormwater facility? What if there is little or no information about the design of the facility?*

An applicant should assume that the facility is not designed to accommodate runoff from additional development. Development of individual residential lots that involve construction and associated disturbance of 250 square feet or more of site area must comply with the 10% Rule, using one of three options:

- Option 1. Submit a Residential Water Quality Management Plan
- Option 2. Plant Trees and/or Shrubs on the site
- Option 3. Obtain an Offset

See Section 5.0 for more information on residential project compliance.

Special Development Scenarios

40. *How should an applicant address the treatment of stormwater on new or widened bridges or on berthing facilities that are constructed over open water?*

The site area will include the project site plus any areas of open water that will be covered by post-development impervious surfaces such as a bridge or berth structure. The pre-development load associated with any open water areas of the project site will be 0 (zero) pounds per acre per year because open water areas will be considered the same as a "pervious area" of the project site. The post-development load will be calculated per the standard application process with the bridge surface or berth structure considered as impervious.

41. *Can the removal of piles of debris and garbage obtain some sort of stormwater credit?*

No. The removal of debris and garbage from a site is done as part of the normal construction process and may not receive a credit.

Critical Area Buffer

42. *What is the 100-foot Buffer and how does it differ from the rest of the Critical Area?*

A crucial part of habitat protection and water quality improvement is the establishment of a naturally vegetated, forested Buffer between human disturbances and sensitive land and water resources. A forested Buffer acts as a filter for the removal or reduction of sediment, nutrients, and toxic substances that enter adjacent waterways in land runoff. The Buffer also minimizes the adverse impact of human activities on habitat within the Critical Area. The Critical Area Act requires the establishment of a minimum Buffer of 100 feet of natural vegetation landward from the Mean High Water Line of tidal waters or the edge of tidal wetlands and tributary streams. In general, in order to develop within the Buffer, an applicant must obtain a variance by demonstrating unwarranted hardship and proving the project will not have a negative impact to water quality, plant, fish, or wildlife habitat. Shore erosion control measures, water access and water-dependent facilities may be permitted in the Buffer without a variance. Any clearing that occurs for access or water-dependent facilities must be mitigated through a Buffer Management Plan approved by the local jurisdiction.

43. *Exactly what is and isn't permitted in the Critical Area Buffer? Who should be contacted if a violation is suspected?*

The Buffer may be disturbed only for certain activities such as water-dependent structures, access to the shoreline, and shore erosion control measures. Agricultural activities within the Buffer are permitted under special guidelines. In general, the cutting or clearing of trees, except those that are diseased or damaged, is not allowed in the Buffer. A Buffer Management Plan, approved by the local government, can be used to allow for reasonable access to the water, the removal of invasive species and overall enhancement of the Buffer. No other development (e.g., swimming pools, tennis courts, structures, stormwater management structures, and septic fields) or other land disturbances are permitted in the Buffer. The Buffer should be maintained in natural vegetation (e.g., forested) and must be expanded to include adjacent sensitive resources, such as steep slopes, hydric or highly erodible soils. Trees and other vegetation may be planted in the Buffer, and the use of native species such as Sycamore, Flowering Dogwood, Mountain Laurel and American Holly is strongly recommended. A more complete list of native species recommended by the Critical Area Commission can be found on-line at www.dnr.state.md.us/criticalarea/trees.html.

44. *Can BMPs be located within the 100-foot Buffer?*

No. The CAC considers BMPs a development activity, and they may not be located within the 100-foot Buffer.

45. *Are outfalls allowed in the 100-foot Buffer?*

Yes, outfalls that are considered to be water-dependent facilities are allowed to pass through the 100-foot Buffer, but they must discharge into open water.

Offsets

46. *What is an Offset?*

The Critical Area Criteria define offsets as "structures or actions that compensate for undesirable impacts." Offsets address the impacts associated with uncontrolled stormwater runoff generated from a development site by providing alternative ways to reduce pollutants when on-site BMPs are insufficient or impractical. Offsets must remove a pollutant load equal to or greater than the pollutant removal requirement. Offset fees must be equivalent to the cost of planning, designing, constructing, and maintaining a BMP capable of meeting the pollutant removal requirement.